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June 5, 2000

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Dockets Management Branch (HFA-305)
Food and Drug Administration
5630 Fishers Lane
Room 10-61
Rockville, Maryland 20852

RE: Comment to Pediatric Exclusivity Program
Section 505A of the Federal Food, Drug and Cosmetic Act (21 U.S.C. §355a)
Docket No. 00N-1266

Dear Sir/Madam:

In response to the Federal Register Notice of May 5, 2000, in the above-referenced docket, the undersigned, on behalf of Aventis Pharmaceuticals, Inc. ("Aventis"), offers the following comments on FDA's program to implement §505A of the Federal Food, Drug and Cosmetic Act ("Act"):

1. Effectiveness of the Program in Improving Information about Important Pediatric Uses for Approved Drugs

- Aventis submits that time needed for the FDA review a Proposed Pediatric Study Request, Written Request and Written Agreement has hindered the timely start of clinical trials in pediatric patients since the sponsor must delay trials in order to insure acceptability of study design to obtain pediatric exclusivity.

- Aventis appreciates the elimination of user fees for pediatric supplements and agrees that this enhances the incentive to provide pediatric data.

- Aventis is satisfied with the provision that allows the determination of exclusivity independent of FDA action regarding approvability of an NDA or

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supplemental NDA. This clearly encourages the obtaining of information on pediatric uses.

2. Adequacy of the Pediatric Exclusivity Incentive

- Considering the time demands of conducting adequate and well-controlled studies in pediatric patients, Aventis believes that, for the incentive to operate effectively, the program should be extended past the sunset date and FDA should support such action in Congress. Specifically, pediatric studies have several complicating factors not involved, or of lesser issue in adult studies (i.e., recruitment, informed consent, blood draws, etc.). Given these complications, many studies can only be performed in specialized PPRUs. The limited number of these facilities can quickly become overloaded and slow trials due to a lack of availability of qualified investigators and sites and, unless the provisions are extended, may undermine the exclusivity incentive.

- Aventis believes that the exclusion of biologics and some antibiotics unjustly discriminates against the manufacturers of these products and reflects the inadequacy of the incentive as provided by Congress.

- Pediatric exclusivity can only supplement existing exclusivity (non-patent, orphan drug or patent). If the FDA requests, and ultimately requires a marketed product already facing generic competition to conduct pediatric studies, there is no incentive. Does the FDA plan to address this situation?

3. Suggestions for Modifications to Pediatric Exclusivity Program

- Aventis submits that the FDA should give consideration to pending patent or exclusivity expirations when reviewing requests. Specifically, Aventis submits that if pending patent or other exclusivity expiration limits the sponsor's ability to obtain FDA agreement to pediatric clinical proposals and conduct adequate and well-controlled clinical trials within the period prior to exclusivity expiration, the FDA should reconsider its review times, giving priority to such products.

- Aventis submits that the time for FDA review of proposals for pediatric studies needs to be shortened to allow sponsors adequate time to conduct and formally submit studies prior to the current sunset provisions or patent or exclusivity expiration.

- Aventis submits that FDA should consider granting exclusivity for sponsors with unsuccessful but reasonable attempts to produce pediatric formulations. That is, if a sponsor provides sufficient evidence of reasonable good faith and attempts to develop a pediatric formulation, but this remains unsuccessful, consideration should be given to extending pediatric exclusivity based on this effort. Similarly, when considering a Written Request or a sponsor's request to amend a Written Request, FDA should take into account formulation difficulties for pediatric dosage forms and not require testing in age groups for which no formulation is reasonably available.

- Aventis appreciates the value of the Written Request in providing clarity prior to initiation of clinical studies, but questions the value of adding a Written Agreement if the Written Request is clear.

We appreciate the opportunity to submit these Comments and thank you for your consideration.

Very truly yours,

Peter O. Safir
Counsel for Aventis Pharmaceuticals, Inc.

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